

P24222.A05



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Hidenari SAKAGUCHI et al.

Confirmation No. 1782

Group Art Unit : 1614

Serial No : 10/662,299

Examiner : Roberts, Lezah

Filed : September 16, 2003

For : A COMPOSITION FOR ORAL CAVITY

ELECTION WITH TRAVERSE

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Amendment
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir :

This is in response to the requirement for election under 35 U.S.C. § 121 mailed from the U.S. Patent and Trademark Office on November 10, 2005 which set a one-month shortened statutory period for reply to expire on December 12, 2005 (December 10/11, 2005 being a Saturday/Sunday). Applicants hereby request an extension of time for one month and are concurrently filing a formal Request for Extension of Time, together with all requisite fees therefor. If for any reason the Request for Extension of Time is not associated with the file, or the fee submitted herewith is deemed insufficient for any reason, the present submission should be interpreted to include the requisite Request for Extension of Time, and the Patent and Trademark Office is hereby authorized to charge any fees necessary to preserve the pendency of this application to Deposit Account No. 19-0089.

ELECTION REQUIREMENT

The Examiner has required an election of a single disclosed species with respect to the following species of the claimed invention:

- 1) a free radical scavenger as in claim 1;
- 2) a base as in claim 3, i.e., waxes, Vaseline, triglyceride, squalene, liquid paraffin, polyhydric alcohols, water soluble polymers, and photopolymerizable monomer; and
- 3) an emulsifier as in claim 4.

ELECTION

In order to be responsive to the requirement for election, Applicants elect, with traverse the following species:

- 1) catalase as free radical scavenger;
- 2) microcrystalline wax as base;
- 3) sorbitan fatty acid esters as emulsifier.

At least the following claims are readable on the elected species: 1-5, 7-11, 13-16, 18-22 and 24.

TRAVERSE

Applicants respectfully submit that an election of species is inappropriate in this case. Specifically, in MPEP Chapter 800, the Office sets forth its policy by which examiners

P24222.A05

are guided in requiring restriction under 35 U.S.C. § 121. Section 803 states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

In the present case, the search and examination of the entire application would not constitute a serious burden. For example, a search for a composition for the oral cavity which contains catalase as free radical scavenger should cover many compositions which contain other free radical scavengers. Corresponding considerations apply with respect to compositions which contain microcrystalline wax as base and/or sorbitan fatty acid esters as emulsifier in addition to a free radical scavenger.

In summary, Applicants respectfully request that the Election Requirement be reconsidered and withdrawn, for at least the reasons set forth above.

Should there be any questions, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
Hidenari SAKAGUCHI et al.



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